



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chairman Hal Stratton
Commissioner Thomas H. Moore
Commissioner Mary Sheila Gall

ITEM:


Petition (CP 03-3) Requesting Labeling of Weightlifting Bench-Press Benches to Reduce or Prevent Deaths Due to Asphyxia/Anoxia

DECISION:

The Commission voted unanimously (3-0) to deny Petition CP 03-3. The Commission denied the petition on the basis that based on available information, it cannot find preliminarily that (1) weightlifting bench-press benches without labeling such as that requested in the petition present an unreasonable risk of injury; (2) a mandatory performance standard is reasonably necessary to eliminate or reduce the risk in question; and (3) failure to begin rulemaking would unreasonably expose consumers to the risk of injury in question, asphyxia and anoxia.

The denial letter to the petitioner, Dr. V. Patteson Lombardi, is attached.

For the Commission:


Todd A. Stevenson
Secretary

* Ballot vote due June 22, 2004



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Todd A. Stevenson
Secretary to the Commission

Office of the Secretary

Tel: (301) 504-6836
Fax: (301) 504-0127
Email: tstevenson@cpsc.gov

August 9, 2004

V. Patteson Lombardi, PhD
Department of Biology
College of Arts and Sciences
University of Oregon
1210 University of Oregon
Eugene, OR 97403-1210

Dear Dr. Lombardi:

This letter concerns your letter of March 31, 2003, in which you requested that the Consumer Product Safety Commission require a warning label on both uprights of all "manufactured, publicly available" weightlifting bench press benches. You asserted that the labeling is necessary to reduce or eliminate deaths due to asphyxia/anoxia caused by being trapped under a bench press barbell. Your request was docketed as petition number CP 03-3 pursuant to the Consumer Product Safety Act (CPSA).¹ As discussed in detail below, under applicable regulations the Commission has voted 3-0 to deny the petition because, based on available information, it cannot find preliminarily that:

- Weightlifting bench-press benches without labeling such as that requested in the petition present an unreasonable risk of injury²
- A mandatory performance standard is reasonably necessary to eliminate or reduce the risk in question³

¹ 15 U.S.C. §§ 2051-2084.

² 16 C.F.R. § 1051.9(a)(1).

- Failure to begin rulemaking would unreasonably expose consumers to the risk of injury in question⁴

In reaching its decision, the Commission considered your letter of March 31, 2003 and the materials submitted with it, the extensive materials prepared by the Commission staff and presented in the staff briefing package *Briefing Package, Petition CP 03-3: Petition Requesting Labeling of Weightlifting Bench-Press Benches to Reduce or Prevent Deaths Due to Asphyxia/Anoxia, April 2004*, (the Staff Briefing Package); the subsequent comment you provided on the petition; and other information. As required by applicable regulations, the Commission also considered the relative priority of the risk of injury associated with weightlifting bench-press benches without warning labels such as you requested and Commission resources available for rulemaking activities with respect to that risk of injury.⁵

1. Do weightlifting bench-press benches without labeling such as that requested in the petition present an unreasonable risk of injury (16 C.F.R. § 1051.9(a)(1)).

Commission staff estimates that there are approximately six to nine million bench-press benches in use both inside and outside homes. Staff believes that, during the four-year period examined, the actual number of potentially addressable deaths was in the range of four, that is one per year.

Given the few incidents that appear to be addressable by the labeling requested by the petitioner and the staff's view of the likely ineffectiveness of that labeling in any event, the Commission has concluded that available information does not support a preliminary finding that bench-press benches without the requested labeling present an unreasonable risk of injury.

2. Whether a rule is reasonably necessary to eliminate or reduce the risk of injury (16 C.F.R. § 1051.9(a)(2)).

In light of the staff's conclusion that the need for mandatory labeling as proposed by the petitioner is unsupported by available data and that the requested labeling of bench-press benches would not significantly reduce injuries and deaths associated with their use, the Commission has concluded that a rule such as that requested is not reasonably necessary.

³ 16 C.F.R. § 1051.9(a)(2).

⁴ 16 C.F.R. § 1051.9(a)(3).

⁵ 16 C.F.R. § 1051.9(b).

3. Whether failure of the Commission to initiate the rulemaking proceeding requested would unreasonably expose the petitioner or other consumers to the risk of injury which the petitioner alleges is presented by the product (16 CFR 1051.9(a)(3)).

Based on the few incidents that appear to be addressable by the requested labeling and the staff's unfavorable evaluation of the potential efficacy of the labeling, the Commission has concluded that it is not appropriate to commence rulemaking on the subject at this time.

Conclusion

Based on the foregoing analysis and the information before it, the Commission has denied the petition. In making that decision, the Commission also considered the relative priority of the risk associated with weightlifting bench-press benches without labeling such as that requested in the petition and the Commission's resources available for rulemaking activities with respect to that risk of injury.⁶

In closing, the Commissioners have asked me to convey their thanks to you for bringing this aspect of weightlifting bench-press bench safety to the attention of the CPSC.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson", with a stylized, cursive script.

Todd A. Stevenson

⁶ 16 C.F.R. § 1051.9(b).